

**UNITED STATES DISTRICT COURT**  
**SOUTHERN DISTRICT OF CALIFORNIA**

ROBERT BROWN,

Plaintiff,

v.

SAN DIEGO STATE UNIVERSITY  
 FOUNDATION, a California non-  
 profit corporation; BOARD OF  
 TRUSTEES OF THE CALIFORNIA  
 STATE UNIVERSITY, an unknown  
 entity; and DOES 1 through 100,  
 inclusive,

Defendants.

CASE NO. 3:13-cv-2294-GPC-NLS

**ORDER DENYING DEFENDANTS'  
 EX PARTE MOTION TO CLARIFY**

**[ECF No. 47]**


Before the Court is Defendants San Diego State University Research Foundation and Board of Trustees of the California State University's (collectively, "Defendants") Motion to Clarify. (ECF No. 47.) Plaintiff Robert Brown ("Plaintiff") opposes. (ECF No. 48.) Defendants seek to clarify whether this Court's Order Denying Defendant's Motion for Summary Judgment or, Alternatively, Partial Summary Judgment (the "MSJ Order"), (ECF No. 40), granted partial summary judgment on two issues: (1) whether there was any evidence of fraud, duress, or undue influence; and (2) whether the Confidentiality Agreement was binding. (ECF No. 47-1, at 3–4.) The facts and procedural posture of this case have been laid out in the MSJ Order. (*See* ECF No. 40.)

Federal Rule of Civil Procedure 56 states that "[a] party may move for summary

1 judgment, *identifying* each claim or defense—or the part of each claim or defense—on  
2 which summary judgment is sought.” FED. R. CIV. P. 56(a) (emphasis added). The only  
3 claims, defenses, or parts thereof identified by Defendants’ motion were “all plaintiff’s  
4 claims except his age discrimination claims.” (*See* ECF No. 22, at 2.) While Defendants  
5 stated that they were seeking “partial summary judgment” “in the alternative,” (*see id.*  
6 at 1–2), they did not *identify* what claims, defenses, or parts thereof, if any, they were  
7 seeking partial summary judgment on. Because Defendants did not identify the specific  
8 issues of fraud, duress, and undue influence, or confidentiality agreement validity as  
9 ones they were seeking partial summary judgment on, the MSJ Order did not grant  
10 partial summary judgment on those issues. Accordingly, the Court finds that there is  
11 no need to further clarify the MSJ Order and **DENIES** Defendants’ motion to clarify,  
12 (ECF No. 47).

13 **IT IS SO ORDERED.**

14 DATED: December 8, 2014

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17 HON. GONZALO P. CURIEL  
18 United States District Judge  
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